

may, under the authority of 10 U.S.C. 1076a(h), extend the Active Duty Dependents Dental Plan to areas other than those areas specified in paragraph (a)(2)(i) of this section for the eligible beneficiaries of members of the Uniformed Services. In extending the program outside the Continental United States, the ASD(HA), or designee, is authorized to establish program elements, methods of administration and payment rates and procedures to providers that are different from those in effect under this section in the Continental United States to the extent the ASD(HA), or designee, determines necessary for the effective and efficient operation of the plan outside the Continental United States. This includes provisions for preauthorization of care if the needed services are not available in a Uniformed Service overseas dental treatment facility and payment by the Department of certain cost-shares and other portions of a provider's billed charges. Other differences may occur based on limitations in the availability and capabilities of the Uniformed Services overseas dental treatment facility and a particular nation's civilian sector providers in certain areas. Otherwise, rules pertaining to services covered under the plan and quality of care standards for providers shall be comparable to those in effect under this section in the Continental United States and available military guidelines. In addition, all provisions of 10 U.S.C. 1076a shall remain in effect.

(j) *General assignment of benefits not recognized.* CHAMPUS does not recognize any general assignment of CHAMPUS benefits to another person. All CHAMPUS benefits are payable as described in this and other Sections of this part.

[51 FR 24008, July 1, 1986, as amended at 52 FR 33007, Sept. 1, 1987; 53 FR 5373, Feb. 24, 1988; 54 FR 25246, June 14, 1989; 56 FR 28487, June 21, 1991; 56 FR 59878, Nov. 26, 1991; 58 FR 35408, July 1, 1993; 58 FR 51238, Oct. 1, 1993; 58 FR 58961, Nov. 5, 1993; 62 FR 35097, June 30, 1997; 63 FR 48446, Sept. 10, 1998; 64 FR 38576, July 19, 1999]

§ 199.8 Double coverage.

(a) *Introduction.* (1) In enacting CHAMPUS legislation, Congress clearly has intended that CHAMPUS be the

secondary payer to all health benefit and insurance plans. 10 U.S.C. 1079(j)(1) specifically provides:

“A benefit may not be paid under a plan (CHAMPUS) covered by this section in the case of a person enrolled in or covered by any other insurance, medical service, or health plan to the extent that the benefit also is a benefit under the other plan, except in the case of a plan (Medicaid) administered under title 19 of the Social Security Act (42 U.S.C. 1396, *et seq.*).”

(2) The above provision is made applicable specifically to retired members, dependents, and survivors by 10 U.S.C. 1086(d). The underlying intent, in addition to preventing waste of Federal resources, is to ensure that CHAMPUS beneficiaries receive maximum benefits while ensuring that the combined payments of CHAMPUS and other health benefit and insurance plans do not exceed the total charges.

(b) *Double coverage plan.* A double coverage plan is one of the following:

(1) *Insurance plan.* An insurance plan is any plan or program that is designed to provide compensation or coverage for expenses incurred by a beneficiary for medical services and supplies. It includes plans or programs for which the beneficiary pays a premium to an issuing agent as well as those plans or programs to which the beneficiary is entitled as a result of employment or membership in, or association with, an organization or group.

(2) *Medical service or health plan.* A medical service or health plan is any plan or program of an organized health care group, corporation, or other entity for the provision of health care to an individual from plan providers, both professional and institutional. It includes plans or programs for which the beneficiary pays a premium to an issuing agent as well as those plans or programs to which the beneficiary is entitled as a result of employment or membership in, or association with, an organization or group.

(3) *Exceptions.* Double coverage plans do not include:

(i) Plans administered under title XIX of the Social Security Act (Medicaid);

(ii) Coverage specifically designed to supplement CHAMPUS benefits (a

health insurance policy or other health benefit plan that meets the definition and criteria under supplemental insurance plan as set forth in §199.2(b));

(iii) Entitlement to receive care from Uniformed Services medical care facilities;

(iv) Certain Federal Government programs, as prescribed by the Director, OCHAMPUS, that are designed to provide benefits to a distinct beneficiary population and for which entitlement does not derive from either premium payment of monetary contribution (for example, the Indian Health Service); or

(v) State Victims of Crime Compensation Programs.

(c) *Application of double coverage provisions.* CHAMPUS claims submitted for otherwise covered services or supplies and which involve double coverage shall be adjudicated as follows:

(1) *CHAMPUS always last pay.* For any claim that involves a double coverage plan as defined above, CHAMPUS shall be last pay. That is, CHAMPUS benefits may not be extended until all other double coverage plans have adjudicated the claim.

(2) *Waiver of benefits.* A CHAMPUS beneficiary may not elect to waive benefits under a double coverage plan and use CHAMPUS. Whenever double coverage exists, the provisions of this Section shall be applied.

(3) *Last pay limitations.* CHAMPUS may not pay more as a secondary payer than it would have in the absence of other coverages. Application of double coverage provisions does not extend or add to the CHAMPUS benefits as otherwise set forth in this and other Sections of this part.

(d) *Special considerations.* (1) *CHAMPUS and Medicare.* Under certain circumstances a CHAMPUS beneficiary can also be eligible for Medicare. In any double coverage situation involving Medicare, Medicare is always the primary payer. When Part A, "Hospital Insurance," of Medicare is involved, the Medicare "lifetime reserve" benefit must be used before CHAMPUS benefits may be used. The procedures to be followed for these circumstances are as follows.

(i) *Dependents of active duty members.* For dependents of active duty members, payment will be determined in ac-

cordance with paragraph (c) of this section.

(ii) *Medicare end stage renal disease beneficiaries.* In any case involving a Medicare end stage renal disease beneficiary as provided in paragraph (f)(3)(viii) of §199.3, CHAMPUS secondary payments will be determined in accordance with paragraph (c) of this section.

(iii) *Medicare disabled beneficiaries.* In any case involving a Medicare disabled beneficiary as provided in paragraph (f)(3)(ix) of §199.3, CHAMPUS payment is determined in accordance with paragraph (c) of this section.

(2) *CHAMPUS and Medicaid.* Medicaid is not a double coverage plan. In any double coverage situation involving Medicaid, CHAMPUS is always the primary payer.

(3) *CHAMPUS and Worker's Compensation.* CHAMPUS benefits are not payable for a work-related illness or injury that is covered under a worker's compensation program.

(4) *Program for persons with disabilities (PFPWD).* A PFPWD eligible beneficiary (or sponsor or guardian acting on behalf of the beneficiary) does not have the option of waiving the full use of public facilities which are determined by the Director, OCHAMPUS, or designee, to be available and adequate to meet a disability related need for which a PFPWD benefit was requested. Benefits eligible for payment under a State plan for medical assistance under Title XIX of the Social Security Act (Medicaid) are never considered to be available in the adjudication of PFPWD benefits.

(e) *Implementing instructions.* The Director, OCHAMPUS, or a designee, shall issue such instructions, procedures, or guidelines, as necessary, to implement the intent of this section.

[51 FR 24008, July 1, 1986, as amended at 62 FR 35097, June 30, 1997; 62 FR 54384, Oct. 20, 1997; 63 FR 59232, Nov. 3, 1998; 64 FR 46141, Aug. 24, 1999]

§ 199.9 Administrative remedies for fraud, abuse, and conflict of interest.

(a) *General.* (1) This section sets forth provisions for invoking administrative remedies under CHAMPUS in situations involving fraud, abuse, or conflict